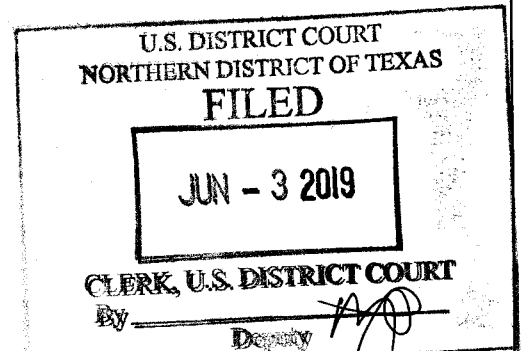


ORIGINAL



Peter Strojnik
7847 N. Central Avenue
Phoenix, Arizona 85020
Telephone: (602) 524-6602
ps@strojnik.com

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
Dallas Division

CASE NO.:

319 - CV 1326 - B

Peter Strojnik

Plaintiff,

vs.

Dunhill 1530 Main GP, Inc. dba The Joule,

Defendant.

COMPLAINT

1. Plaintiff brings this action pursuant to the (1) Americans with Disabilities Act, 42 U.S.C. §12101 *et seq.* and corresponding regulations, 28 CFR Part 36 and Department of Justice Standards for Accessible Design ("ADAAG"), and (2) common law of negligence per se.

PARTIES

2. Plaintiff Peter Strojnik is a veteran and a disabled person as defined by the ADA.
3. Plaintiff is a single man currently residing in Maricopa County, Arizona. Plaintiff is and, at all times relevant hereto has been, legally disabled by virtue of a severe right-sided neural foraminal stenosis with symptoms of femoral neuropathy, prostate cancer and renal cancer, degenerative right knee and arthritis and is therefore a member of a protected class under the ADA.

- 1 4. Plaintiff suffers from physical impairments described above which impairments
2 substantially limit his major life activities. Plaintiff walks with difficulty and pain
3 and requires compliant mobility accessible features at places of public
4 accommodation. Plaintiff's impairment is constant, but the degree of pain is episodic
5 ranging from dull and numbing pain to extreme and excruciating agony.
- 6 5. Plaintiff is retired and likes to spend his retirement years traveling the United States.
- 7 6. Defendant, owns, operates leases or leases to a lodging business ("Hotel") located at
8 1530 Main Street, Dallas, TX 75201 which is a public accommodation pursuant to 42
9 U.S.C. § 12181(7)(A).

JURISDICTION

- 10 7. District Court has jurisdiction over this case or controversy by virtue of 28 U.S.C. §§
11 28-1331 and 42 U.S.C. § 12188 and 28 U.S.C. § 1367.
- 12 8. Plaintiff brings this action as a private attorney general who has been personally
13 subjected to discrimination on the basis of his disability, *see* 42 U.S.C. §12188 and
14 28 CFR §36.501.
- 15 9. This Court has continuing subject matter jurisdiction by virtue of, *inter alia*,
16 Plaintiff's claim for equitable nominal damages.
- 17 10. Venue is proper pursuant to 28 U.S.C. § 1391.
- 18 11. The ADAAG violations in this Verified Complaint relate to barriers to Plaintiffs
19 mobility. This impairs Plaintiff's full and equal access to the Hotel which, in turn,
20 constitutes discrimination satisfying the "injury in fact" requirement of Article III of
21 the United States Constitution.
- 22 12. Plaintiff is deterred from visiting the Hotel based on Plaintiff's knowledge that the
23 Hotel is not ADA or State Law compliant as such compliance relates to Plaintiff's
24 disability.
- 25 13. Plaintiff intends to visit Defendant's Hotel at a specific time when the Defendant's
26 noncompliant Hotel becomes fully compliant with ADAAG; just as a disabled
27 individual who intends to return to a noncompliant facility suffers an imminent injury
28 from the facility's existing or imminently threatened noncompliance with the ADA, a

1 plaintiff who is deterred from patronizing a hotel suffers the ongoing actual injury of
2 lack of access to the Hotel.

3 **COUNT ONE**
4 **Violation of Plaintiff's Civil Rights under the ADA**

5 14. Plaintiff realleges all allegations heretofore set forth.

6 15. By virtue of his disability, Plaintiff requires an ADA compliant lodging facility
7 particularly applicable to his mobility, both ambulatory and wheelchair assisted.

8 16. Plaintiff booked a mobility accessible room with Defendant for a period of February
9 20-22, 2019.

10 17. Plaintiff visited the Hotel and discovered it was not accessibility suitable for his needs
11 and that it was replete with architectural barriers as more fully disclosed in Addendum
12 A.

13 18. Defendant has violated the ADA by denying Plaintiff equal access to its public
14 accommodation on the basis of his disability as outlined above and as outlined in
15 Addendum A.

16 19. The ADA violations described in Addendum A relate to Plaintiff's disability and
17 interfere with Plaintiff's full and complete enjoyment of the Hotel.

18 20. The removal of accessibility barriers listed above is readily achievable.

19 21. As a direct and proximate result of ADA Violations, Defendant's failure to remove
20 accessibility barriers prevented Plaintiff from equal access to the Defendant's public
21 accommodation.

22 **WHEREFORE**, Plaintiff prays for all relief as follows:

23 A. Relief described in 42 U.S.C. §2000a – 3; and

24 B. Relief described in 42 U.S.C. § 12188(a) and (b) and, particularly -

25 C. Injunctive relief order to alter Defendant's place of public accommodation to
26 make it readily accessible to and usable by ALL individuals with disabilities;
27 and

28 D. Requiring the provision of an auxiliary aid or service, modification of a
policy, or provision of alternative methods, to the extent required by
Subchapter III of the ADA; and

1 E. Equitable nominal damages; and

2 F. For costs, expenses and attorney's fees; and

3 G. All remedies provided for in 28 C.F.R. 36.501(a) and (b).

4 **COUNT TWO**

5 Negligence

6 22. Plaintiff realleges all allegations heretofore set forth.

7 23. Defendant had a duty to Plaintiff to remove ADA accessibility barriers so that Plaintiff
8 as a disabled individual would have full and equal access to the public
9 accommodation.

10 24. Defendant breached this duty.

11 25. Defendant is or should be aware that, historically, society has tended to isolate and
12 segregate individuals with disabilities, and, despite some improvements, such forms
13 of discrimination against individuals with disabilities continue to be a serious and
14 pervasive social problem¹.

15 26. Defendant knowingly and intentionally participated in this historical discrimination
16 against Plaintiff, causing Plaintiff damage.

17 27. Discrimination against individuals with disabilities persists in the use and enjoyment
18 of critical public accommodations².

19 28. Defendant's knowing and intentional persistence in discrimination against Plaintiff is
20 alleged, causing Plaintiff damage.

21 29. Individuals with disabilities, including Plaintiff, continually encounter various forms
22 of discrimination, including outright intentional exclusion, the discriminatory effects
23 of architectural, overprotective rules and policies, failure to make modifications to
24 existing facilities and practices, exclusionary qualification standards and criteria,
25 segregation, and relegation to lesser services, programs, activities, benefits, jobs, or
26 other opportunities³.

27 ¹ 42 U.S.C. § 12101(a)(2)

28 ² 42 U.S.C. § 12101(a)(3)

³ 42 U.S.C. § 12101(a)(5)

1 30. Defendant's knowing and intentional discrimination against Plaintiff reinforces above
2 forms of discrimination, causing Plaintiff damage.

3 31. Census data, national polls, and other studies have documented that people with
4 disabilities, as a group, occupy an inferior status in our society, and are severely
5 disadvantaged socially, vocationally, economically, and educationally⁴.

6 32. Defendant's knowing and intentional discrimination has relegated Plaintiff to an
7 inferior status in society, causing Plaintiff damage.

8 33. The Nation's proper goals regarding individuals with disabilities are to assure equality
9 of opportunity, full participation, independent living, and economic self-sufficiency
10 for such individuals⁵.

11 34. Defendant's knowing, and intentional discrimination has worked counter to our
12 Nation's goals of equality, causing Plaintiff damage.

13 35. Continued existence of unfair and unnecessary discrimination and prejudice denies
14 people with disabilities the opportunity to compete on an equal basis and to pursue
15 those opportunities for which our free society is justifiably famous, and costs the
16 United States billions of dollars in unnecessary expenses resulting from dependency
17 and nonproductivity⁶.

18 36. Defendant's knowing and intentional unfair and unnecessary discrimination against
19 Plaintiff demonstrates Defendant's knowing and intentional damage to Plaintiff.

20 37. Defendant's breach of duty caused Plaintiff damages including, without limitation,
21 the feeling of segregation, discrimination, relegation to second class citizen status the
22 pain, suffering and emotional damages inherent to discrimination and segregation and
23 other damages to be proven at trial.

24 38. By violating Plaintiff's civil rights, Defendant engaged in intentional, aggravated and
25 outrageous conduct.

26 39. The ADA has been the law of the land since 1991, but Defendant engaged in a
27 conscious action of a reprehensible character, that is, Defendant denied Plaintiff his

28 ⁴ 42 U.S.C. §12101(a)(6)

⁵ 42 U.S.C. §12101(a)(7)

⁶ 42 U.S.C. §12101(a)(8)

- 1 civil rights, and cause him damage by virtue of segregation, discrimination, relegation
2 to second class citizen status the pain, suffering and emotional damages inherent to
3 discrimination and segregation and other damages to be proven at trial
- 4 40. Defendant either intended to cause injury to Plaintiff or defendant consciously
5 pursued a course of conduct knowing that it created a substantial risk of significant
6 harm to Plaintiff.
- 7 41. Defendant is liable to Plaintiff for punitive damages in an amount to be proven at trial
8 sufficient, however, to deter this Defendant and others similarly situated from
9 pursuing similar acts.

10 **WHEREFORE**, Plaintiff prays for relief as follows:


- 11 A. For finding of negligence; and
12 B. For damages in an amount to be proven at trial; and
13 C. For punitive damages to be proven at trial; and
14 D. For such other and further relief as the Court may deem just and proper.

15 **REQUEST FOR TRIAL BY JURY**

16 Plaintiff respectfully requests a trial by jury in issues triable by a jury.

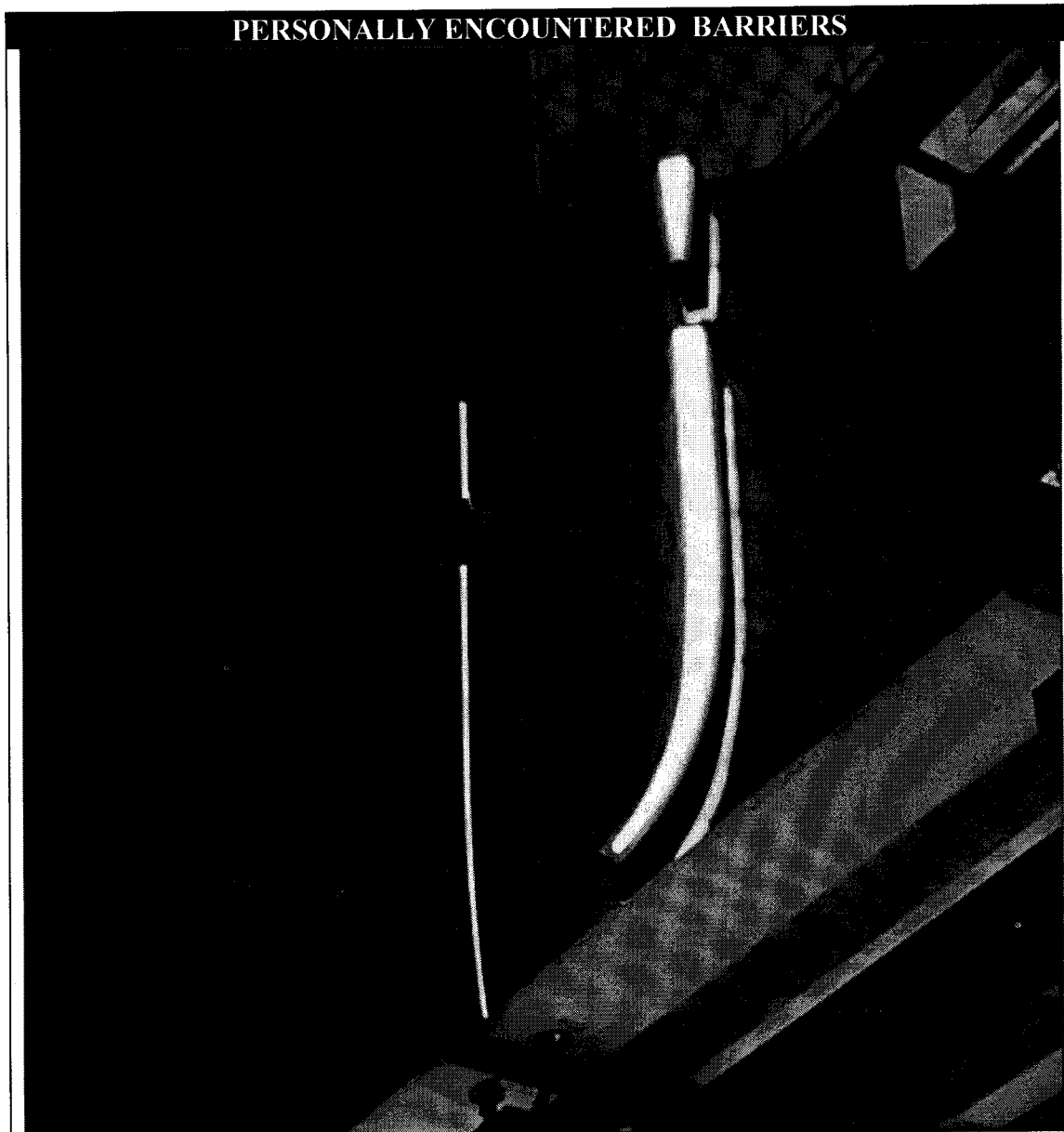
17 DATED this May 28, 2019.

18 **PETER STROJNIK**

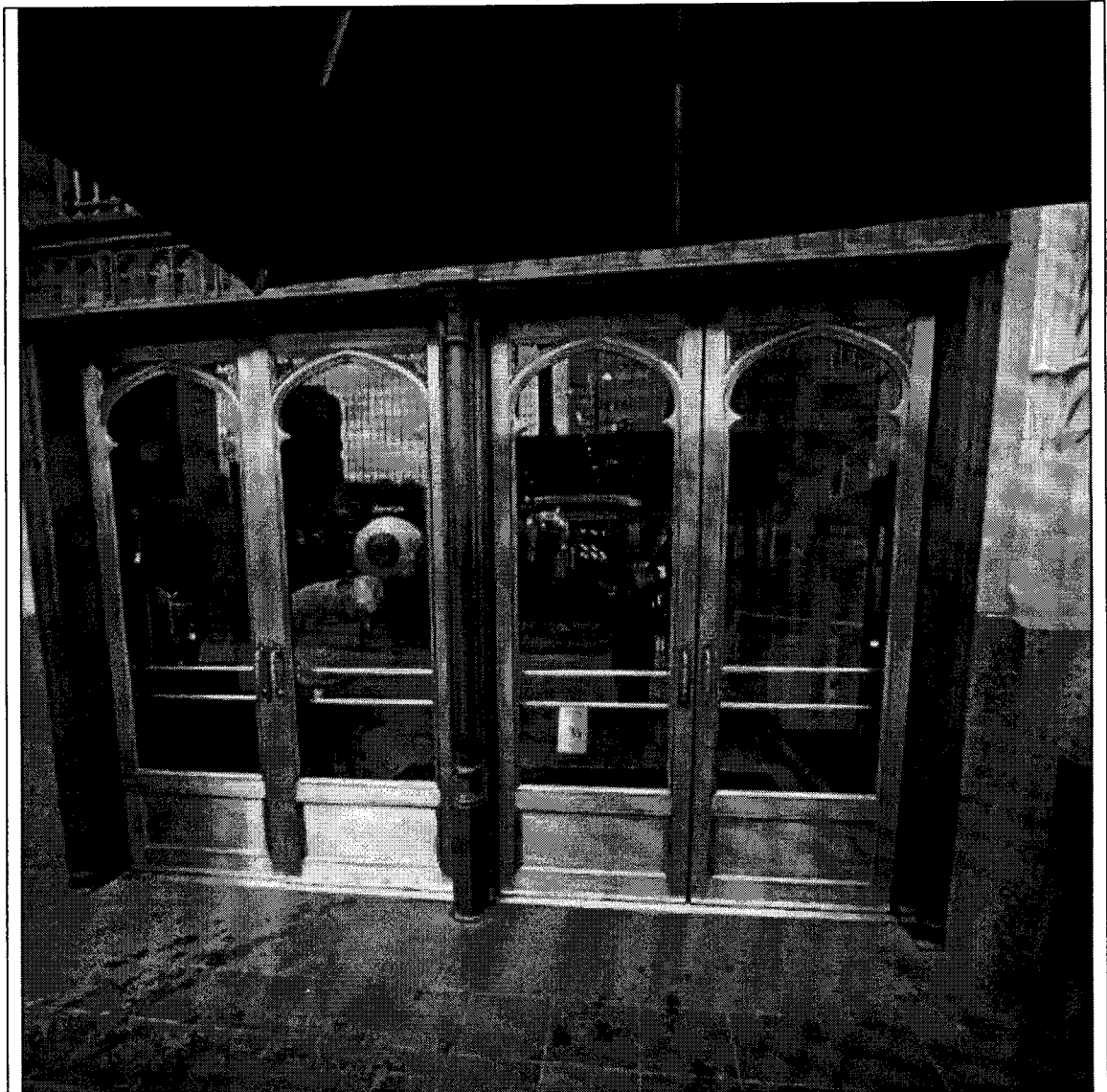
19 
20 Plaintiff

ADDENDUM A

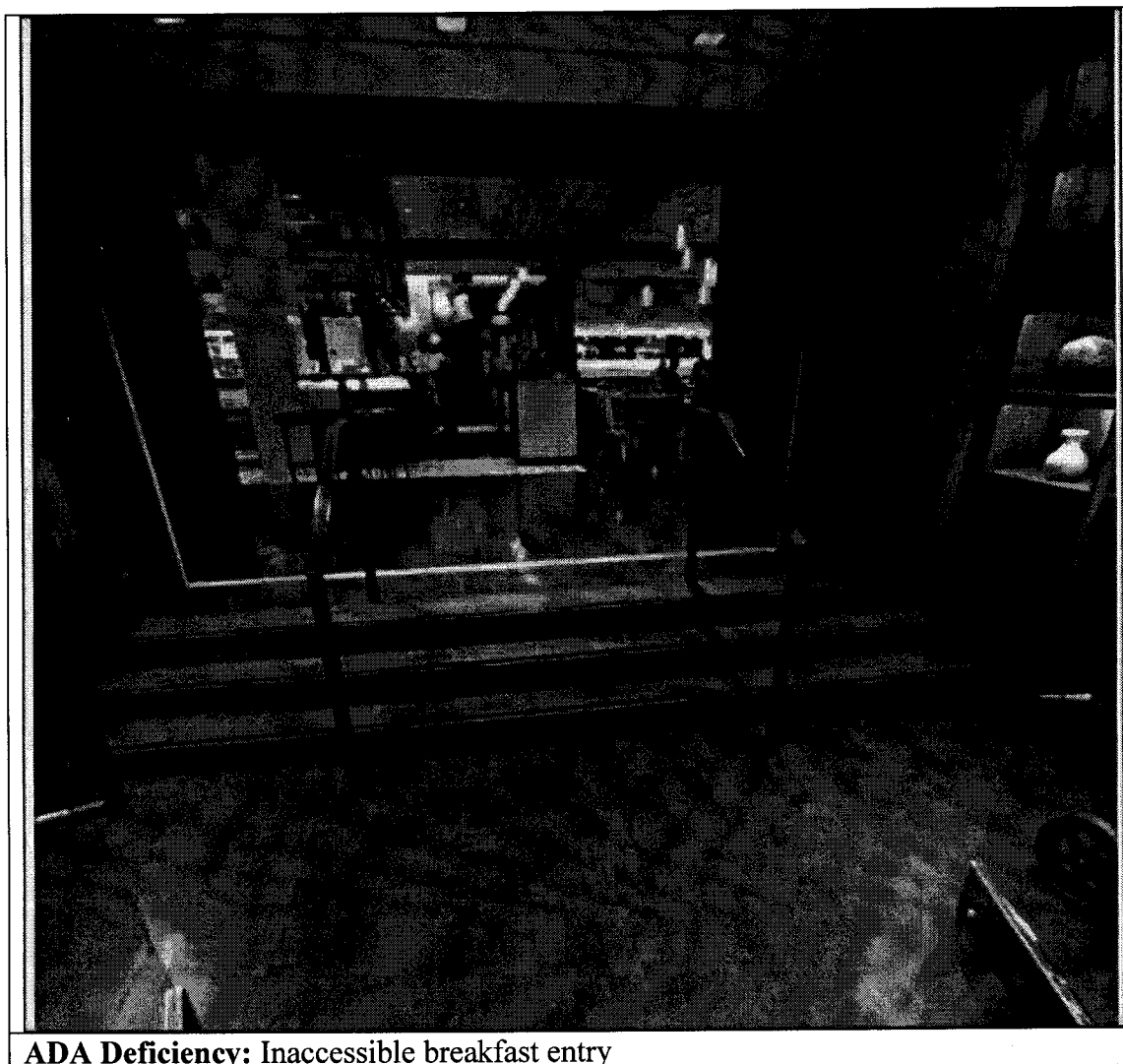
PERSONALLY ENCOUNTERED BARRIERS



Hotel Identification.

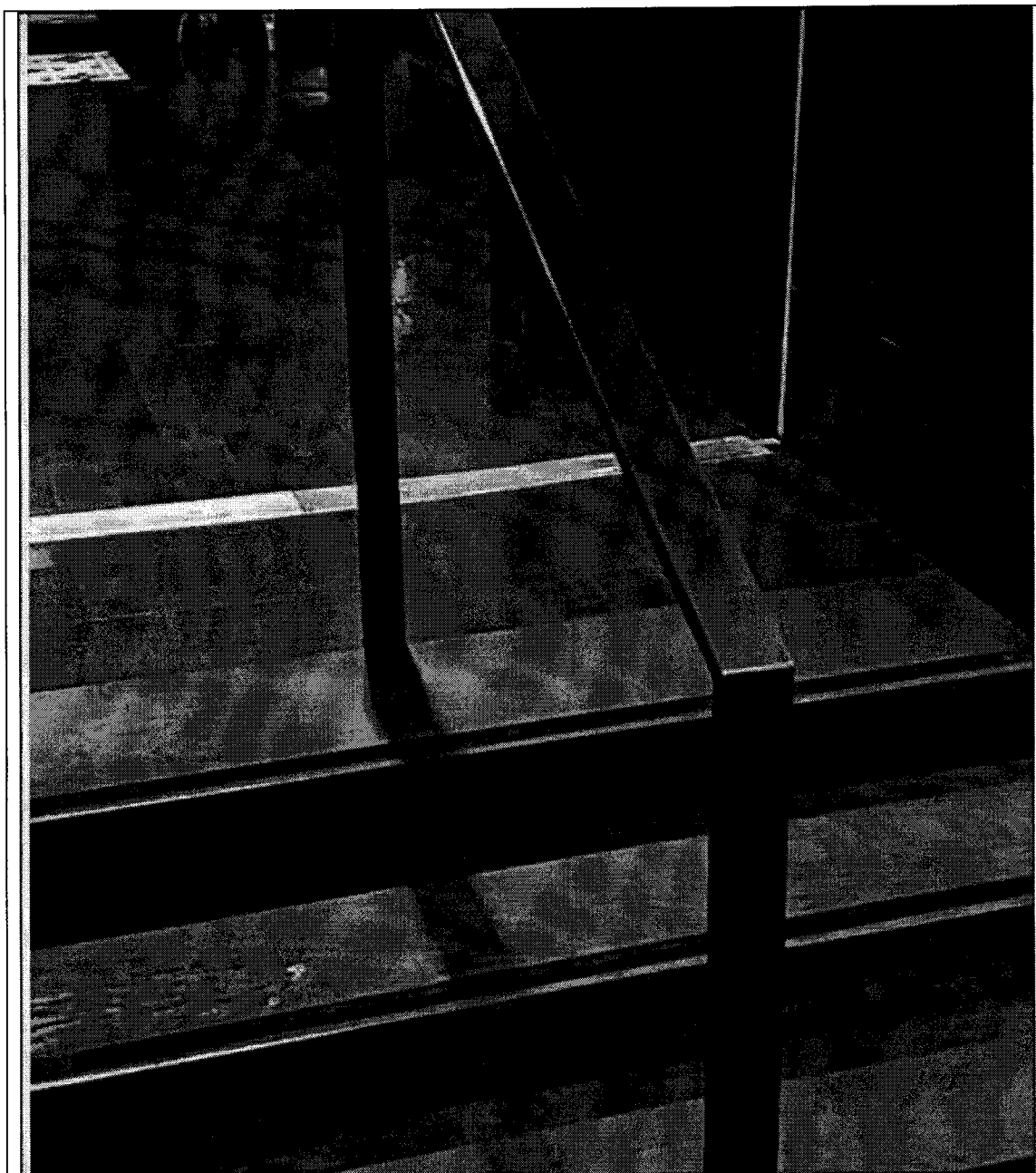


ADA Deficiency: 25 lbs needed to open



ADA Deficiency: Inaccessible breakfast entry

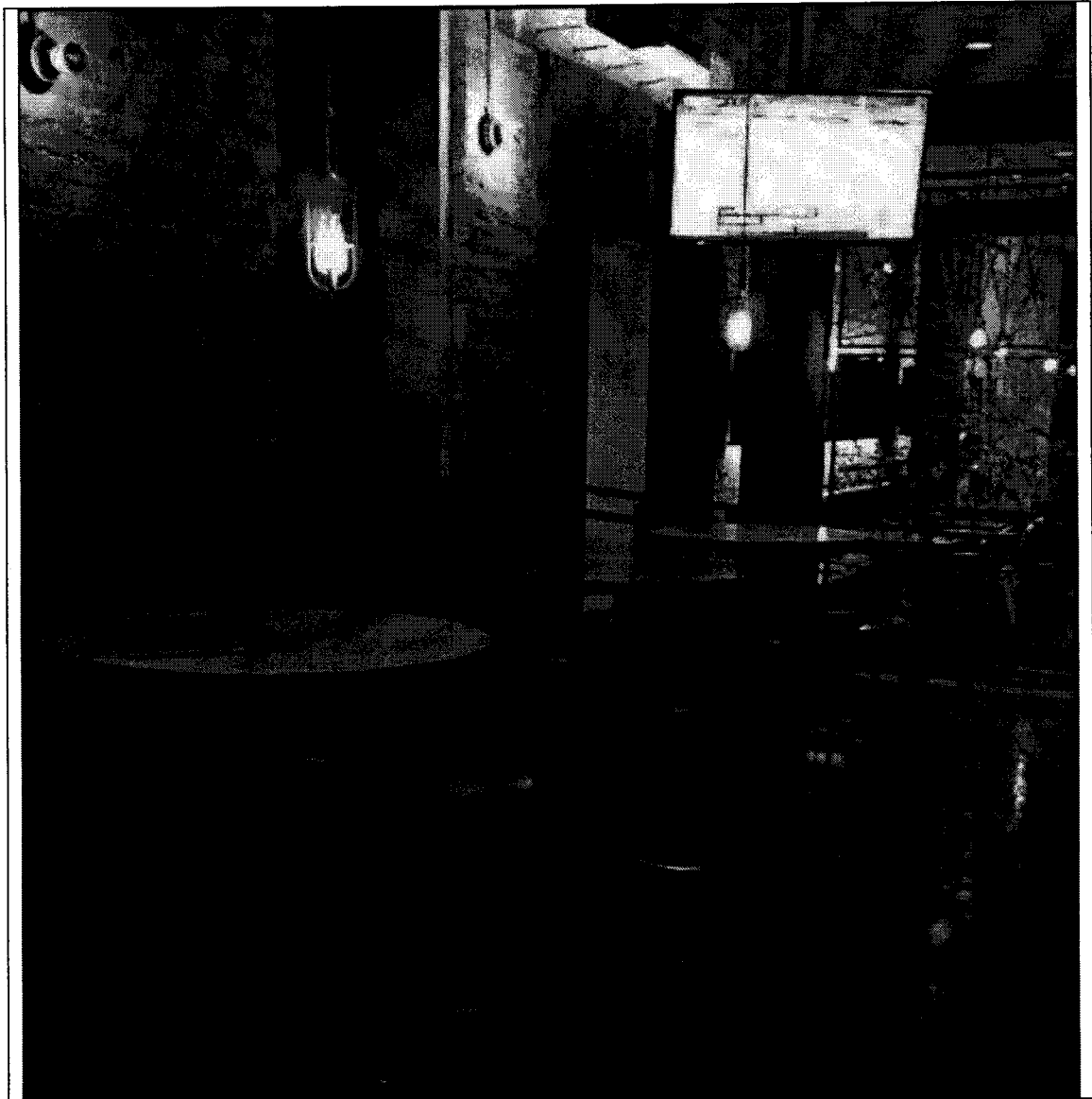
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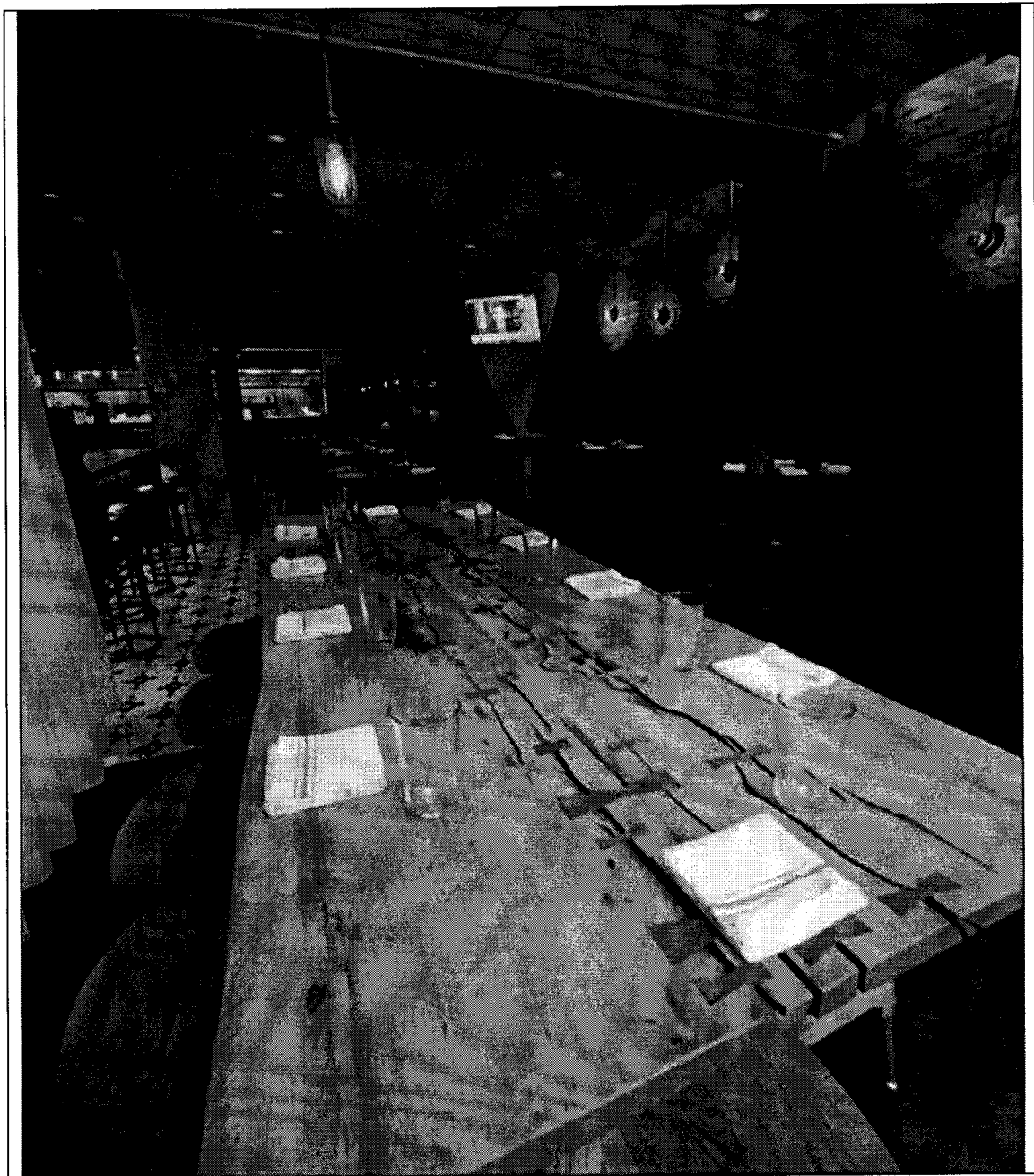
ADA Deficiency: Improperly configured handrails.



ADA Deficiency: Inaccessible bar.



ADA Deficiency: Inaccessible bar seating



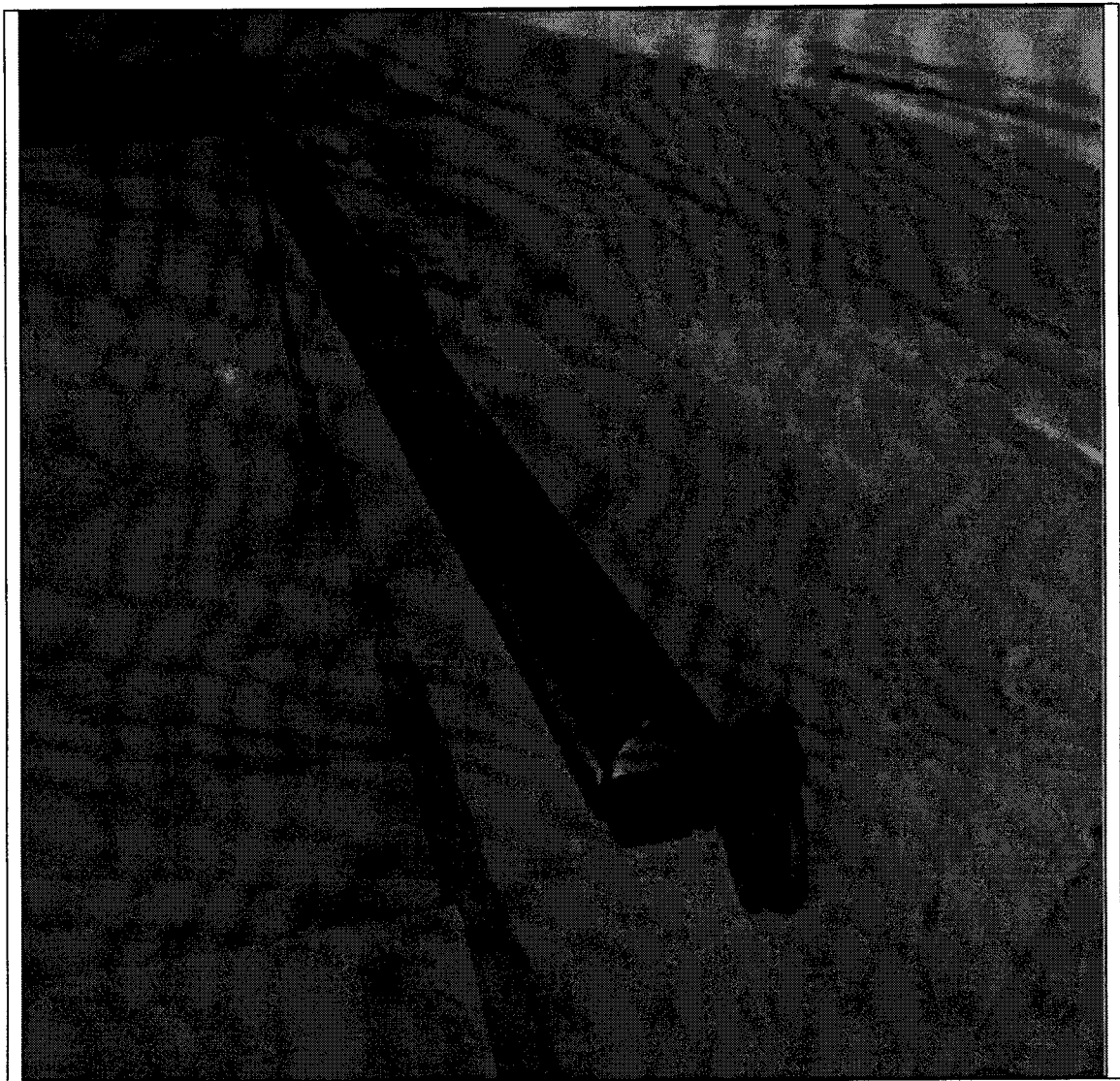
ADA Deficiency: Inaccessible bar seating



ADA Deficiency: Inaccessible lobby bar.

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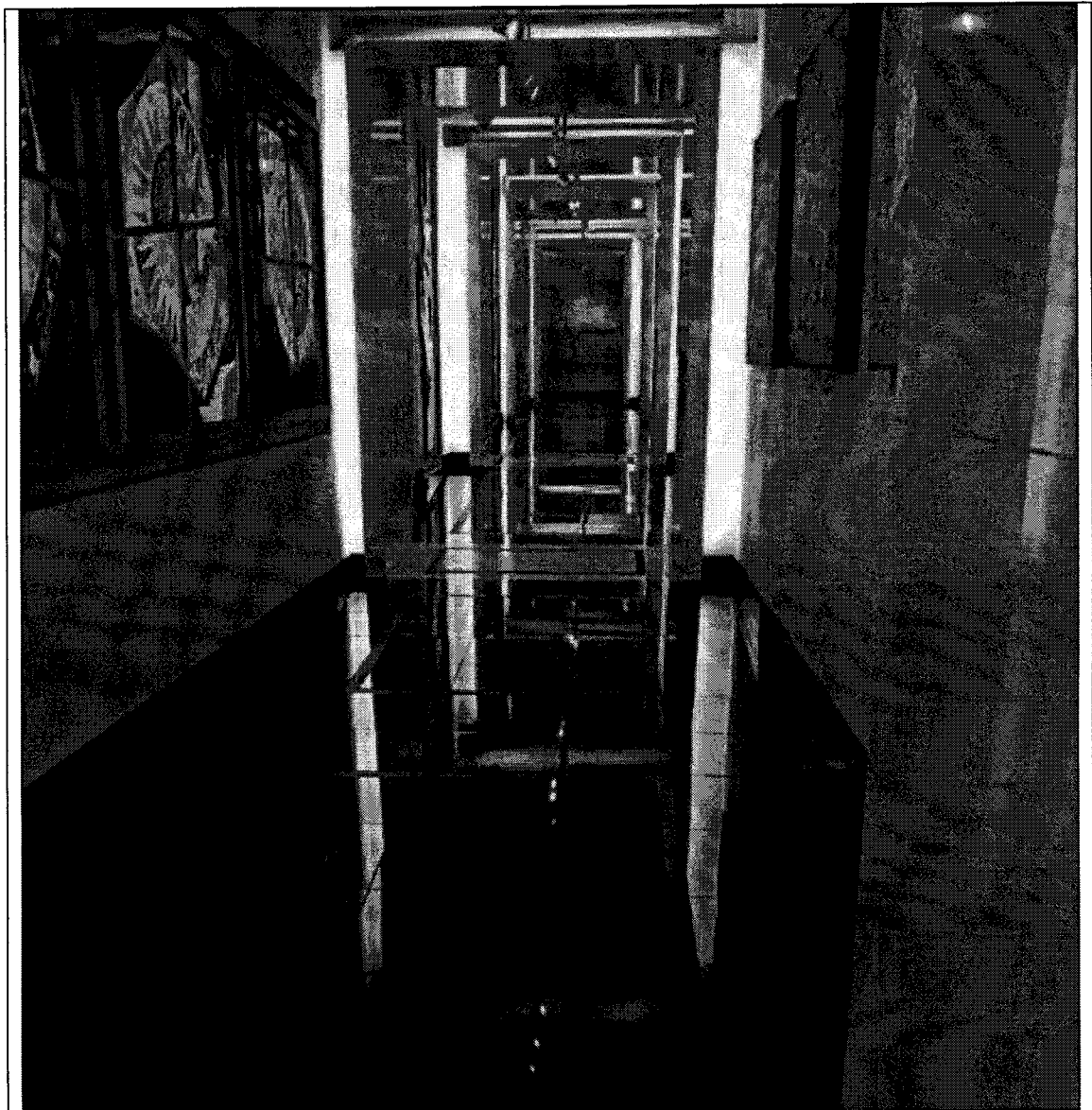
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ADA Deficiency: Improperly configured handrails throughout



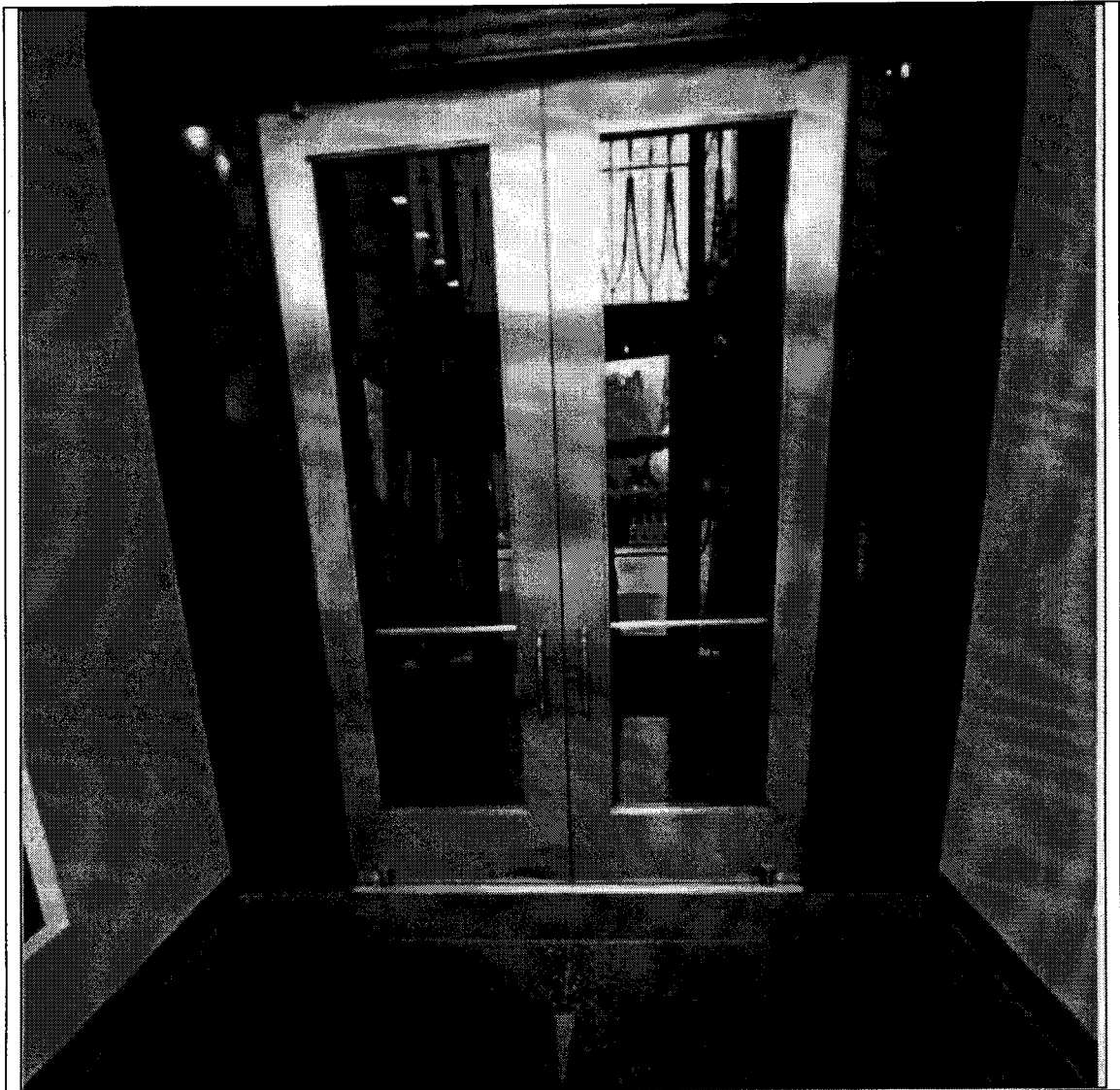
ADA Deficiency: Inaccessible check in counter.



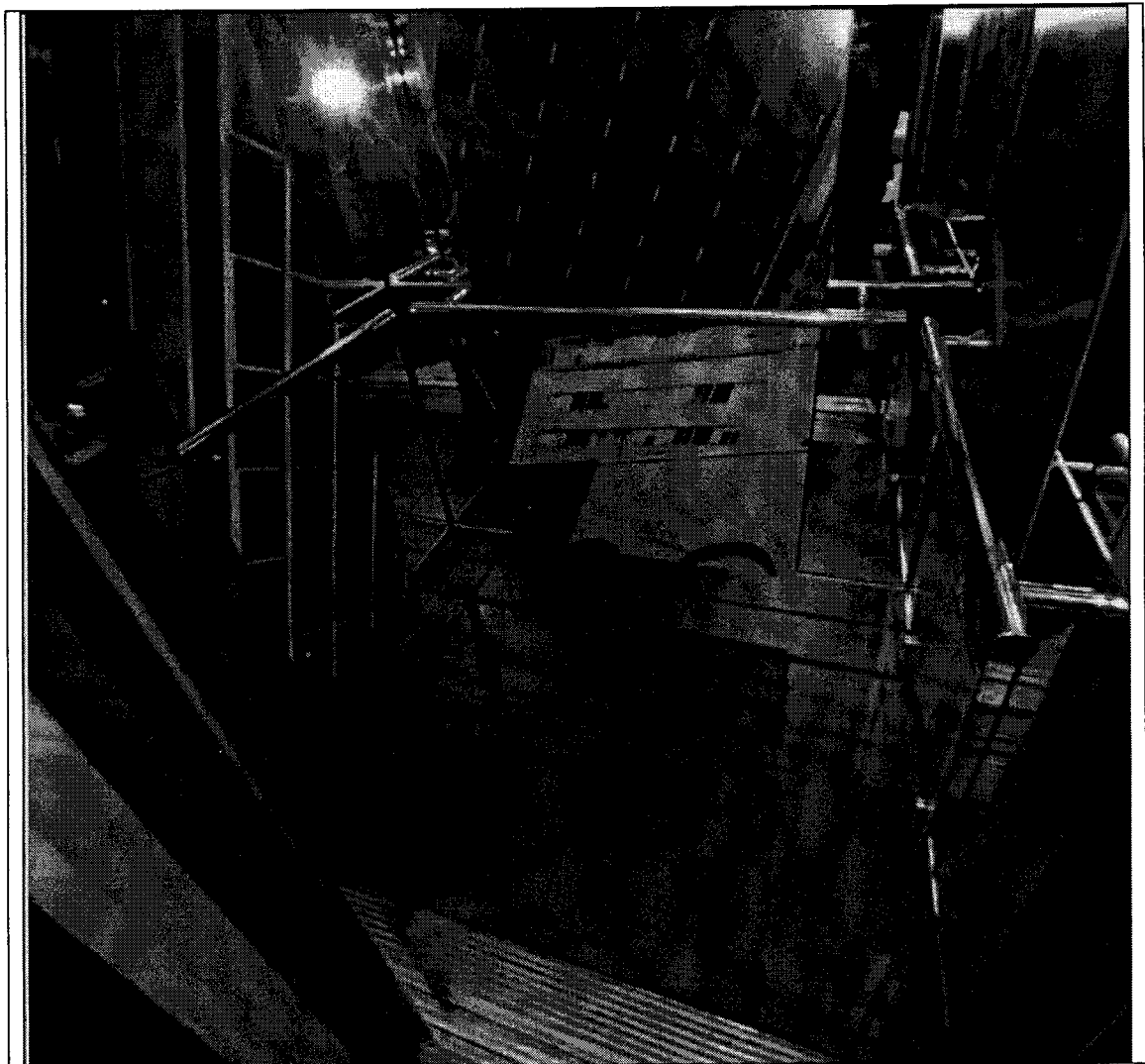
ADA Deficiency: Inaccessible route too steep. No landings. No handrails.



ADA Deficiency: More than 5 lbs to open.



ADA Deficiency: More than 5 lbs to open.



ADA Deficiency: Inaccessible elevator.

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ADA Deficiency: More than 5 lbs to open room



ADA Deficiency: 2.5 seconds closing time

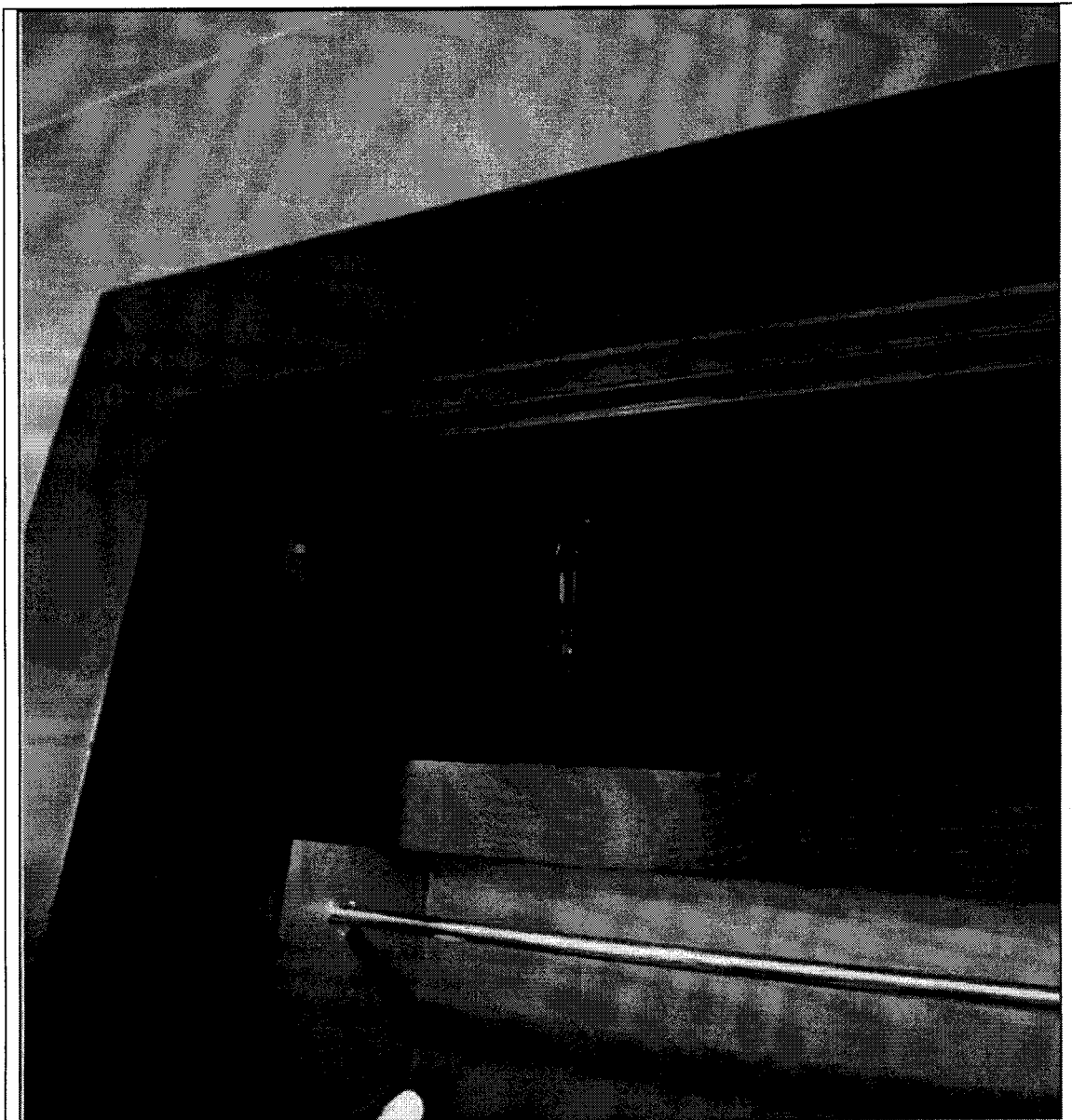


ADA Deficiency: Dangerous closing strike force – beyond measurement



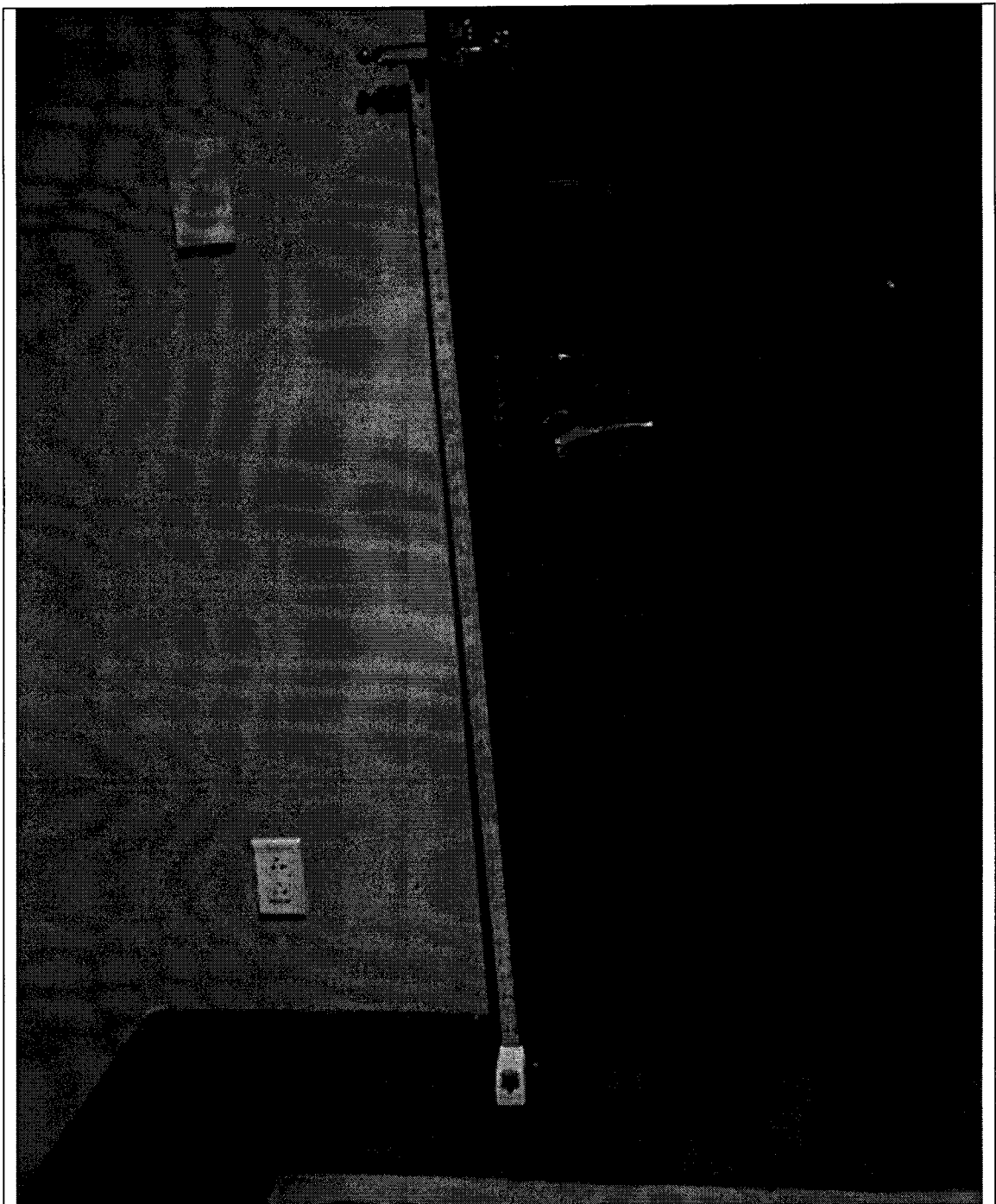
ADA Deficiency: 10 lbs closet opening force.

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ADA Deficiency: Inaccessible clothes iron

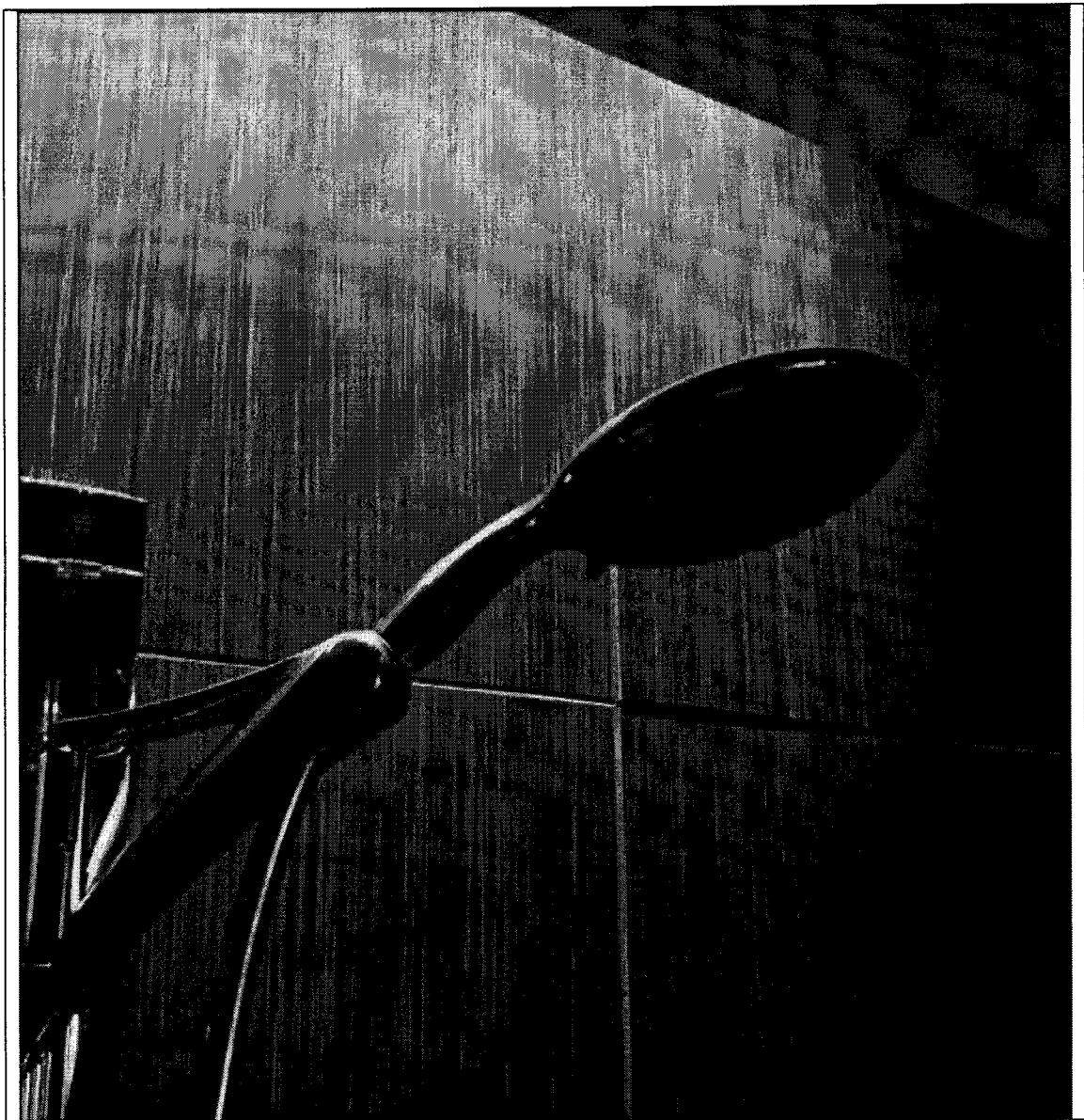
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ADA Deficiency: Security latch too high.



ADA Deficiency: Grab bar – seat interference.



ADA Deficiency: No shut off control on spray unit.

END

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

JUN 3 2019
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

I. (a) PLAINTIFFS

Peter Strojnik (pro se)

(b) County of Residence of First Listed Plaintiff Maricopa, AZ
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Peter Strojnik
7847 N. Central Avenue
Phoenix, AZ 85020. 602-524-6602

DEFENDANTS

Dunhill 1530 Main GP, Inc. dba The Joule

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

319 - CV 1326 - B**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input checked="" type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 USC 12101

Brief description of cause:
ADA

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE
5/29/2019

SIGNATURE OF ATTORNEY OF RECORD

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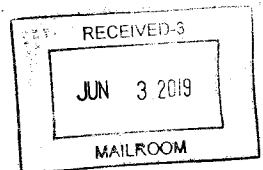
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